HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 961 of 2005 (MS)

Bachi Ram s/o Sri Mani Ram
Village Mundoli (Kandhora) P.O. Mundoli
District Chamoli ..... Petitioner

Versus

1. Additional District Education Officer (Basic) Chamoli, District Chamoli
2. Basic Shiksha Adhikari, Chamoli, District Chamoli
3. Divisional (Khand) Education Officer Dewal, District Chamoli ..... Respondents

Sri S.S. Yadav, Advocate for the petitioner
Standing Counsel for the respondents.

Dated: 5.7.2006

Hon'ble Rajesh Tandon, J.

Heard Sri S.S. Yadav counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the advertisement dated 17.8.2005 and further a writ of mandamus directing the respondents to appoint Shiksha Mitra in accordance with G.O. No. 472/Ma.Sa.Vi./9-1-89-2000 dated 9th January 2000.

Briefly stated according to the petitioner he is graduate and is permanent resident of Kandkhora Gram Panchayat Mundoli, District Chamoli Garhwal. There are two primary schools in the Gaon Sabha. An advertisement was got published by respondent no. 3 for the appointment of Shiksha Mitra in Block Dewal, District Chamoli Garhwal. Out of two posts of

Shiksha Mitra for Gaon Panchayat, Mundoli one post is reserved for scheduled caste woman and another post is for general candidate. The petitioner has submitted that according to G.O. dated 6th September 2000, in the Gaon Sabha where the village Pradhan is male only male Shiksha Mitra is to be appointed there and where the village Pradhan is female, female Shiksha Mitra is to be appointed there. If there are two school in the Gaon Sabha, one post of Shiksha Mitra is to be filled by male general candidate and another post is to be filled up by schedule caste male candidate.

The grievance of the petitioner is that the advertisement has been made in utter violation of the Government orders as in Gaon Sabha, Mandoli, one post of Shiksha Mitra has been notified for general male candidate whereas another post has been notified for scheduled cast female candidate, which has to be reserved for scheduled caste male candidate.

Counter affidavit has been filed on behalf of the respondents, which has been sworn by Sri Lakshman Singh Mapwal, Block Education Officer, Dewal Block, District Chamoli Garhwal. The respondents have admitted the case of the petitioner and has submitted that the respondent is eligible for appointment on the post of Shiksha Mitra at village Kanthora. Paragraph 6 of the counter affidavit is quoted as under:

"6. That on 26.08.2005 the state Government issued a Government order being No. Basic -26372-406/2005-07 dated 26.8.2005 by which the previous reservation policy regarding the appointment on the post of Shiksha Mitra has been amended. Now after the issuance of the said Government Order dated 26.08.2005 the petitioner has become eligible to

be appointed as Shiksha Mitra in Primary School Kanthora after cancellation of the order dated 13.09.2005, appointment will be made on the post of Shiksha Mitra and the petitioner's application will also be considered for the same. As such the writ petition of the petitioner has become infructuous."

According to the respondents vide order-dated 13.9.2005 the process of appointment of Shiksha Mitra in District Chamoli has been postponed till further orders. However, according to the counsel for the petitioner, now the process for appointment of Shiksha Mitra has been started.

Thus in view of the sworn affidavit by the Block Education Officer, Dewal, District Chamoli, there remains no doubt that the petitioner would be considered for the post of Shiksha Mitra in Gaon Sabha Mundoli, which is reserved for scheduled caste Male candidate.

In view of above, a writ of mandamus is issued directing the respondents to consider the petitioner for appointment on the post of Shiksha Mitra at Gaon Sabha, Mundoli.

Accordingly, writ petition is allowed. No order as to costs.

Dated: 5.7.2006 **Rajesh Tandon, J.**

*Dhyani